Testimony of the Honorable Glenn English
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Submitted for the Record to the
United States House Committee on Ways and Means
Select Revenue Measures Subcommittee
Hearing on Certain Expiring Tax Provisions

April 26, 2012

Thank you for the opportunity to offer testimony about how electric cooperatives have utilized expired and expiring renewable electricity tax incentives to develop projects that help keep electricity reliable and affordable for their consumers.

Electric cooperatives and their consumers have, since 2005, utilized the Clean Renewable Energy Bond program (CREBs) to finance renewable projects. Recently, some cooperatives that could not use CREBs have indirectly benefited from the 1603 Treasury Grant Program (TGP). In addition, electric cooperatives have purchased renewable power on contract from private developers claiming the Production Tax Credit (PTC), since the mid-1990s. Co-op experiences with all three of these programs can guide this Committee as it decides the future of renewable incentive policy.

A key principle that should be considered in the context of determing whether energy credits will be permitted to expire is this: if Congress uses the tax code to direct energy policy, not-for-profit electric cooperatives should be included in any available incentives, such as through the recently expired 1603 Treasury Grant Program or Clean Renewable Energy Bond. Otherwise, the tax code will create a disparity. Co-op consumers in rural America will be unable to fully enjoy the diverse mix of generation resources available in areas co-ops serve, while consumers of investor-owned utilities will benefit from incentives. Moreover, without incentives adapted for not-for-profits, meeting state and federal renewable and environmental mandates will be more costly for members of tax exempt rural electric cooperatives than for consumers of investor-owned utilities (IOUs).

Background on Electric Cooperatives

The National Rural Electric Cooperative Association (NRECA) is the national service organization representing the interests of cooperative electric utilities and their consumers. Electric cooperatives are not-for-profit, private businesses governed by their consumers. These consumers are unique in the electric industry in that they are members of their cooperative ("member-consumers") and therefore own their utility. Today, over 900 electric cooperatives serve 42 million consumers in 47 states. Cooperatives are a unique sector of the electric utility industry, serving an average of just 7 consumers per

mile compared with the 35 customers per mile served by investor-owned utilities (IOUs) and 47 customers per mile served by municipal utilities.

To put this in perspective, electric cooperatives serve 12% of the nation's electricity customers -- but maintain 42% of the nation's electricity distribution lines. Annual cooperative revenue per mile averages only $10,565, while it is more than six times higher for investor-owned utilities, at $62,665 and higher still for municipal utilities, at $86,302 per mile. In summary, cooperatives have far less revenue than the other electricity sectors to support a greater share of the distribution infrastructure.

These numbers illustrate why bringing power to rural areas is a challenging and costly endeavor. The not-for-profit, cooperative business model has been the key to delivering reliable and affordable power to these low density areas. Consistent with Internal Revenue Service requirements, electric cooperatives are democratically governed by locally elected boards of directors, and operate at cost. Any revenue collected above what is needed for the cooperative is returned to all consumer-members on an equitable basis. Benefits received from the federal government, therefore, also flow to the cooperative's members. Given this, electric cooperatives are generally exempt from federal income tax. All electric cooperatives, however, pay state and local property taxes, sales tax and payroll and excise taxes.

Does Renewable Electricity Require Incentives?

Electric cooperatives have a mission to provide reliable, affordable electricity to their consumer-members. Co-ops must balance that mission with compliance with state renewable portfolio mandates and state and federal clean air law. As such, co-ops must consider all available electricity sources to meet new electricity demand. Cooperatives are planning to build 12,800 MW of new electric generation over the next decade, and will have to buy additional generation in the market to meet an annual population growth rate exceeding 1 percent per year in their service territories. These figures do not take into account additional power needed to replace older coal plants that will soon be retired given recent and prospective Environmental Protection Agency (EPA) regulations.

According to the Energy Information Agency (EIA), renewable electricity (excluding renewable hydropower) accounts for 4% of the nation's fuel mix – about double the percentage of renewable energy in the mix prior to the expansion of tax incentives under the Energy Policy Act of 2005. Renewable electricity is generally thought of as distributed generation and is much smaller in scale than a new coal or gas plant. In the case of solar and wind, it is only intermittently available. For these reasons, it cannot replace retired coal plants. Nonetheless, renewable resources are an important part of the "mix" for building the generation necessary to meet future electricity demand while mitigating global greenhouse gas emissions and traditional pollutants that result from fossil fuel generation. This is increasingly important as the Environmental Protection Agency develops more strict standards for power plants.

Given its importance to balancing environmental goals within our nation's fuel mix, some ask why renewable electricity should require a tax incentive or incentive of any kind. For cooperatives, the answer is that renewable electricity will only be developed if it can be done so affordably for consumers. Today, without incentives, renewable electricity is unaffordable compared to natural gas-fired generation. In November 2010, U.S. Energy Information Administration estimated that the overnight capital cost of an advanced natural gas combined cycle plant is $1,003 per kW of capacity. Not counting current tax subsidies, by way of comparison, an onshore wind project is the most affordable renewable resources at overnight capital costs of $2438 per kW. For other renewables, the cost is even greater. For example, a large solar photovoltaic is $4755 per kW; and a combined cycle biomass plant is $7894 per kW. Although existing tax credits have driven investments in renewable resources, the mission of making the cost of renewable technology comparable to the cost of conventional resources has not yet been completed.

Despite its value in providing a balanced generation profile for utilities, absent incentives, the pace of placing renewable energy in service is likely to slow to a trickle. Yet putting future generation into one basket – likely, natural gas – is risky due to volatile prices. For example, in May of 2008, natural gas prices were $12.41 per thousand cubic feet (TCF). Today, prices are hovering around $5 TCF. The new, lower prices are a result of both the recession and newly discovered domestic gas reserves. However, past experience teaches us that gas is a volatile price input for fuel as home heating, transportation and electricity sectors all may rely on gas. Moreover, utilizing natural gas does not avoid greenhouse gas emissions.

Some argue that mandates are sufficient to drive renewable energy. Thirty-seven states currently have renewable mandates or goals, and 20 of those include cooperatives in these programs. Without tax or other incentives, there will be no tools available to help co-ops meet those goals affordably. The cost of renewable resources will exceed the cost of paying a penalty to the State for failing to build them. Exacerbating this result, many state mandates ultimately require resource development that simply is not achievable given transmission constraints and the quality or availability of renewable resources. These mandates quickly convert to a pure tax on consumers when penalty payments are paid in lieu of actual resource development. For those reasons, NRECA has opposed one-size-fits-all federal renewable portfolio standard and has consistently advocated that the best way to push the envelope on technology remains incentives – whether those incentives are in the tax code, in the form of grants, or through low-cost loan programs.

Experience with the CREB Program

The Clean Renewable Energy Bond (CREB) program was enacted in the 2005 Energy Policy Act with strong bipartisan support, but its funding was permitted to lapse in 2010. It helped cooperatives and other not-for-profits to finance renewable generation projects that would have been eligible for the Production Tax Credit if developed by a for-profit. The bond started as, essentially, a zero interest, term-limited loan. A cooperative would issue a bond; the bondholder would receive principal repayment from the cooperative;

and the Federal Treasury would provide a tax credit to the bondholder in lieu of interest the cooperative would otherwise have paid.

A volume cap of $800 million in bonding authority was initially provided with $300 million set aside for electric cooperatives. The volume cap posed a problem for the program. Treasury received $2.5 billion in applications overall in the first year. While an additional $400 million (with $150 million set aside for electric cooperatives) was provided under the Tax Relief and Health Care Act of 2006, applications still exceeded available funding authorizations.

By contrast, there is no volume cap for the Production Tax Credit, the Investment Tax Credit or the tax grant provided under the American Recovery and Reinvestment Act of 2009 ("stimulus bill"). Attempting to address this disparity through meaningful program funding, the stimulus bill, combined with the Emergency Economic Stabilization Act of 2008 ("economic rescue bill"), added $2.4 billion in bonding authority to the CREBs program, divided equally between electric cooperatives, municipal utilities and non-utility government bodies. These bills also made a series of improvements to the program to make the bonds more marketable, such as the ability to strip the bond from the tax credit and sell them separately, and provided for a 70%/30% shared interest cost between the issuer and the Treasury.

In 2009 and 2010, electric cooperatives received over $600 million in CREBs awards through bond authorizations that were set asides in the two bills. Despite the promise of significant new funding, the program hit a major snag -- the economic downturn. The market for tax credits nearly collapsed. Potential CREBs buyers were demanding significant additional interest from issuers on top of the face value of the bond – an effective interest rate of 8.5%! So, CREBs had already been allocated to projects that were ready to move forward. But the bonds could not be issued, and the projects – and related jobs – were at a standstill.

To rescue these projects, the Committee made a critical improvement to the program in H.R. 2847, the "Hiring Incentives to Restore Employment Act." This new law established a "direct payment" option that allows CREB issuers, such as cooperatives, to receive a direct payment from Treasury designed to reimburse the co-op for 70% of the projected interest cost on these bonds. This option rescued the program from the negative impact of the recession on the market for tax credits, and assured that renewable projects could move forward. Under the conditions that continue to suppress tax appetite in the bond markets, the "direct pay" feature remains an important aspect of the program.

To sum up cooperatives' success with the program, 210 MW of cooperative renewable power is currently in service financed through CREBs, with another 250 MW poised to come on line under the program. The projects are distributed across 18 states and include solar, wind, geothermal, hydropower, biomass and landfill gas technologies. The map labeled "Attachment A" provides more detail on the projects. Each CREB project merits mention as a success story. The projects are the result of balancing clean energy objectives with the conservative approach imposed by local cooperative Boards of

Directors. The Boards emphasize long-term planning, continued affordable rates and prudent use of utility resources. Electric cooperative projects are not built to impress stockholders or follow a trend, but instead, provide affordable, clean, renewable power benefits to local consumers.

Experience with the Production Tax Credit and 1603 Treasury Grant Program

The CREB program is a story of coop ownership of renewable projects. Direct project ownership is the best way for cooperatives to reserve environmental and compliance benefits for their own consumers. Cooperatives also buy a substantial quantity of renewable energy from the market. Overall, cooperatives distribute over 3900 MW of renewable capacity (not counting hydropower). Twenty percent of this is owned by the cooperative, while eighty percent of this capacity is generated by taxpaying entities and then contractually purchased by cooperatives. These sellers are themselves the recipients of the Production Tax Credit (PTC) or, in the case of solar, the Investment Tax Credit (ITC). Cooperatives do not have federal tax liability and therefore cannot use the PTC – but nonetheless, their consumers can benefit indirectly from entities that do. The PTC has never been a complete solution for cooperatives, as the entire value of the PTC is only partially flowed through to the cooperative on contract. So, the PTC does not provide cooperatives with cost-certainty and more importantly, does not enable electric cooperatives to own and develop their own resources. It has been a valuable underpinning in the marketplace for renewable energy for the past decade, although it has suffered some of the same impacts from the recession that hit the CREBs program – a lack of tax appetite for tax credits.

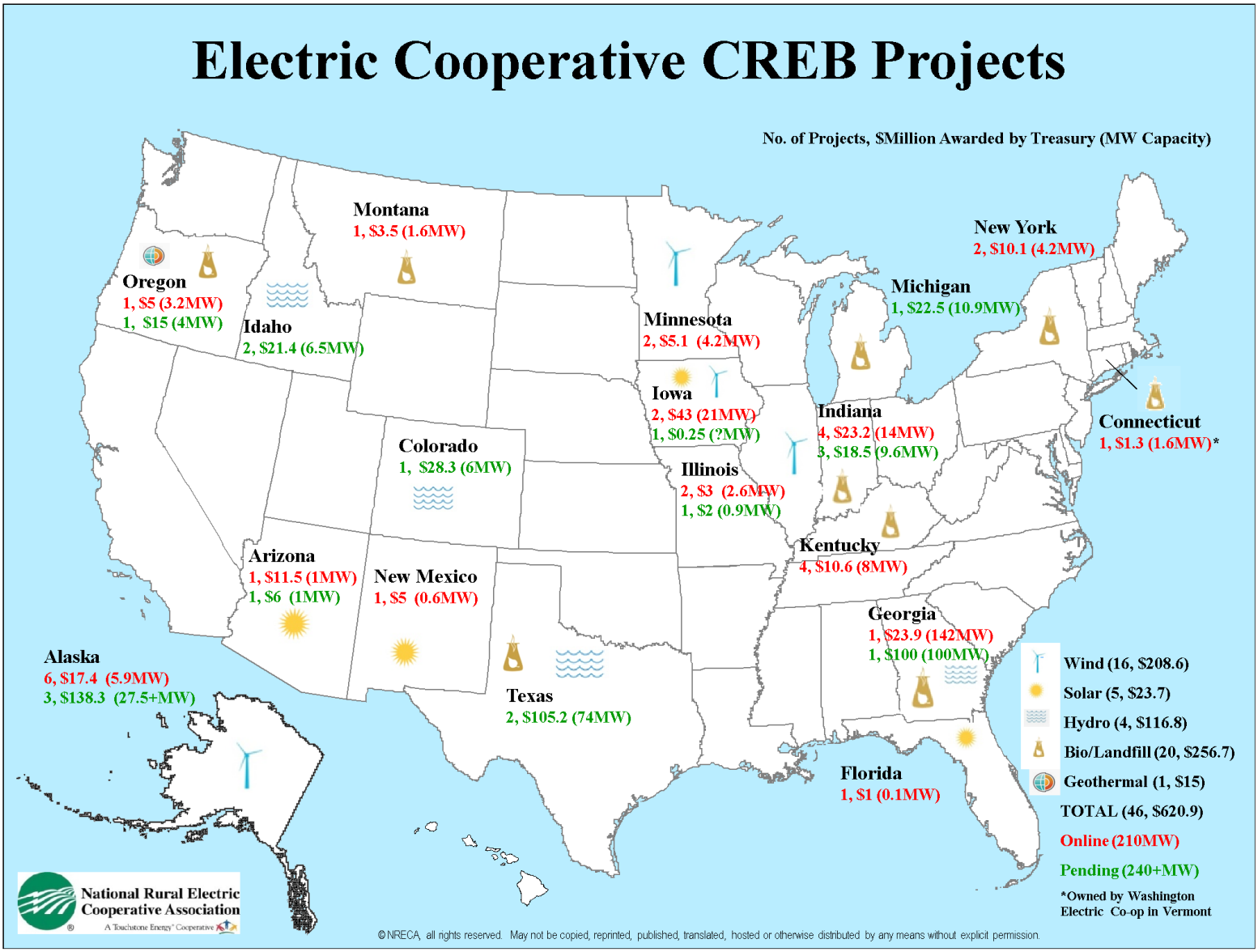
The PTC expansion under the "stimulus bill" created an option to take an Investment Tax Credit -- and then convert the ITC to a tax grant under the "1603 Treasury Grant Program." This mechanism was designed to address the tax appetite barrier affecting the PTC. Under the 1603 Treasury Grant Program (TGP), a renewable developer can receive a grant from Treasury covering 30% of the project's capital costs once it is placed in service. Cooperatives were not included in this program directly, but it has brought cooperatives an opportunity that is proving to be more useful than the PTC. Some cooperatives have formed structures that enable them to indirectly utilize the TGP and own and develop renewable projects. It has been the driver for several significant cooperative renewable projects currently underway.

Conclusion

Whether indirectly through the PTC and 1603 Treasury Grant Program - or directly through CREBs - nearly 100% of the renewable projects that benefit electric cooperative consumers are attributable to tax code incentive programs. Without incentives, development of such renewable projects will grind to a halt. The Committee has important considerations to weigh as they carefully review extensions of expiring credits. Renewable energy development will not "make or break" electric cooperatives as entities, but will shape the extent to which cooperatives rely upon natural gas or other resources in their generation mix, their ability to optimize local resources, and the extent to which

cooperative consumers are exposed to environmental compliance costs. Should Congress choose to extend tax incentives like the PTC to drive down the cost of renewable technologies, we urge Congress to also extend programs -- such as Clean Renewable Energy Bonds or the 1603 Treasury Grant Program -- that benefit not-for-profit cooperative consumers.

Attachment A



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